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FILED

APR 13 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DANNY HAMILTON,)
)
Defendant.)
_____)

No. CR 08-0395 (BZ)

**ORDER OF DETENTION PENDING
SUPERVISED RELEASE VIOLATION
HEARING**

On April 10, 2012, a hearing was held on the government's motion to detain defendant pending his supervised release violation hearing. Defendant was present with counsel, Assistant Federal Public Defender Edward Smock. The government was represented by Assistant United States Attorney Joshua Hill. Probation Officer Insa Amina Bel'Ochi was also present.

On February 7, 2012, defendant's probation officer filed a petition alleging that defendant, on a number of occasions, violated the conditions of his supervised release. The allegations include that he violated special conditions numbers one, two, and six of his supervised release by failing

1 to observe the rules of his Residential Reentry Center, Geo
2 Care, Inc., and receiving thirteen incident reports before he
3 was terminated by Geo Care; failing to report to his probation
4 officer; failing to make any payments toward his restitution;
5 failing to submit monthly supervision reports for November
6 2011, December 2011, and January 2012; and failing to notify
7 his probation officer at least 10 days prior to a change in
8 address. The Duty Judge found probable cause and issued a no
9 bail warrant for defendant's arrest.

10 Because the defendant is charged with a supervised
11 release violation, the burden of establishing by clear and
12 convincing evidence that he is not a flight risk or a danger
13 to the community rests with the defendant. Fed. R. Crim. P.
14 32.1(a)(6); 18 U.S.C. 3143. Having considered the proffers by
15 the parties and the probation officer, and the arguments of
16 counsel, I find that the defendant has not established by
17 clear and convincing evidence that he is not a risk of flight
18 nor a danger to the community.

19 Mr. Hamilton was sentenced to three years of probation on
20 January 9, 2009 for theft of government property. He has had
21 a series of problems while on probation, including drug use,
22 failure to attend drug counseling, and failure to pay
23 restitution. Ultimately, on September 1, 2011, this Court
24 found that Mr. Hamilton had violated his probation and
25 sentenced him to 21 days in custody followed by one year of
26 supervised release.

27 Mr. Hamilton is now charged with violating special
28 conditions numbers one, two, and six of his supervised

1 release. In addition, Mr. Hamilton's probation officer, who
2 has been working with him for at least three years, proffered
3 her belief that Mr. Hamilton wants to continue to use
4 prescription and street drugs and is not motivated to do
5 anything to change his life.

6 Defendant does not have a history of violence and does
7 not appear to present a danger to the community. He has
8 however failed to persuade me by clear and convincing evidence
9 that he is not a risk of flight, and will make his court
10 appearances, or that he is amenable to supervision, given his
11 numerous prior probation violations and the difficulties he
12 has had on release.

13 Therefore, pursuant to 18 U.S.C. § 3143(a), **IT IS ORDERED**
14 that:

15 (1) defendant, Danny Hamilton, be, and hereby is,
16 committed to the custody of the Attorney General for
17 confinement in a suitable facility where he shall be
18 afforded reasonable opportunity for private
19 consultation with his counsel; and

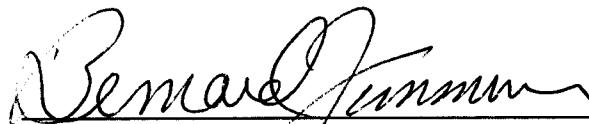
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1 (2) on order of a court of the United States or on
2 request of an attorney for the government, the
3 person in charge of the corrections facility in
4 which the defendant is confined shall deliver the
5 defendant to an authorized Deputy United States
6 Marshal for the purpose of any appearance in
7 connection with a court proceeding.

8
9 Dated: April 13, 2012

10 
11 Bernard Zimmerman
12 United States Magistrate Judge

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